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Fifty-fifth session

SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 April 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 10 a.m.

STATEMENT BY MR. JACQUES BAUDIN, MINISTER FOR FOREIGN AFFAIRS OF SENEGAL

1. Mr. BAUDIN (Senegal) said that the fiftieth anniversary of the Universal Declaration of Human Rights had afforded an opportunity to focus on the universality of human rights and discuss it in greater depth, and that respect for human dignity was henceforth recognized as vital by all schools of thought. If the ideal of universality was to be achieved, every State would need to cultivate a true human rights culture. On the eve of the third millennium, mankind needed to find some appropriate and sustainable responses to the major economic, social, cultural and political problems.

2. The increasingly rapid globalization of the economy was accompanied by greater injustice and an increase in inequalities between peoples. He wondered what would become of the human rights ideal in 25 years' time if half the world was living below the poverty line, if 100 million children below the age of five were in danger of dying from hunger and malnutrition and if three quarters of the developing countries had insufficient drinking water. It was difficult to see how the right of every person to dignity, a fair income, decent housing, education, health and a healthy and balanced environment was to be ensured.

3. The international community had hitherto been too hesitant in implementing economic, social and cultural rights. It should thus consider ways of giving effect to the right to development and should concentrate its attention on the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights.

4. Despite the tireless efforts of the United Nations and its Member States, every day brought a reminder that the demands of international instruments were far from being met. One had only to think of the recent disastrous developments in the conflict in Kosovo, to which the international community was called upon to respond. His Government deplored the methodical and merciless attempt to deprive the people of Kosovo of their essential right to life, security and freedom, and supported all efforts to restore those rights.

5. A culture of tolerance and mutual respect must be the foundation for international relations, and any discrimination, particularly racial discrimination, was deeply unacceptable. In that connection, Senegal demanded that the Spanish Government should have the remains of an African warrior chief on display in the Darder museum in Banyoles, Spain, removed and returned to Africa for a decent burial.

6. The decision by the General Assembly to convene a world conference against racism, racial discrimination, xenophobia and related intolerance showed once again its primordial concern with ensuring the equal dignity of all. It was to be hoped that all the objectives of the conference would be achieved. His Government was confident that the commitment and goodwill of all concerned would make it possible to reach a consensus on the recommendations the Commission had to make to the forthcoming preparatory committee of the conference.

7. The mechanisms set up over 50 years earlier to deal with and remedy human rights violations had proved their usefulness time and time again. The Commission drew its strength and credibility from its specific responses to the expectations of those who were suffering and oppressed in the world. It should therefore step up its efforts to finalize the draft protocols on the sale of children, the involvement of children in armed conflicts and the prevention of torture. The international community should take decisions that reflected the political will of all States to restore confidence and hope in the future of mankind.

8. His Government supported an integrated approach to human rights. While pursuing its efforts to strengthen its institutions, it was endeavouring gradually to implement economic, social and cultural rights. It was only after beginning by respecting the rules of domestic law that a Government was in a position to observe the rules of international law, as there was a continuity between the two legal systems. His Government was determined to promote an international human rights culture and was working towards the establishment of an African court of human rights.

9. He hoped that the work of the fifty-fifth session would reflect the aspirations of all peoples to greater liberty, justice and dignity. He called on all participants to seek a middle course and shun extremes, in the name of faith in the human person and the hope that inspired them all.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(agenda item 11) (continued) (E/CN.4/1999/39 and Add.1, 53-55, 56 and Add.1 and 2, 57, 58 and Add.1 and 2, 59, 60, 61 and Add.1, 62 and Add.1 and Corr.1 and Add.2, 63 and Add.1-4, 64 and Add.1 and 2, 65, 111, 128 and 149; E/CN.4/1999/NGO/21-26, 30, 31, 36, 37, 43, 50-52 and 62; A/53/283 and Corr.1 and 501; A/RES/53/139; E/CN.4/Sub.2/1998/19; E/CN.4/Sub.2/1998/SR.24, 27, 28 and 35).

10. Mr. HUSSAIN (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), introducing his report (E/CN.4/1999/64 and Add.1 and Add.2), recalled that freedom of opinion and expression was one of the pillars of democracy and

the "mother of all rights", as recognized by a growing number of countries, even though the situation in that area was not uniform. In a world of instant information and fast communications, the lack of freedom of expression led inevitably to violence.

11. Within the framework of his mandate, he had sent communications to 25 countries on alleged violations of the right to freedom of opinion and expression. Of the 25 countries, 14 had still not replied. He had also strengthened his cooperation with other human rights mechanisms, as well as with United Nations agencies such as UNESCO which provided technical assistance to States in the field of media legislation. He hoped to establish similar relationships with the Organization for Security and Cooperation in Europe (OSCE) and the Organization of American States (OAS). He also wished to thank the non-governmental organizations (NGOs) which had helped him so much in carrying out his mandate that they had become an inseparable part of his work.

12. He had continued to visit countries. In the year under consideration, he had visited Malaysia and Hungary. Reports on those visits were contained in the two addenda to his report. He thanked the two Governments for their collaboration and hoped that his recommendations to them would prove fruitful. He was especially glad that the Malaysian Government had decided to set up a national human rights commission, as he had recommended. In 1999, he intended to visit the Sudan and had addressed requests to the Russian Federation and Cuba with the same objective.

13. In his report, he drew particular attention to five broad issues, the first of which was the right to seek, receive and impart information. In that connection, he stressed the need to protect the freedom of the press and the freedom of expression of writers in order to guarantee the free flow of information on important and controversial issues. To deprive people of information was to subjugate them.

14. National security considerations, particularly in relation to the fight against terrorism, should not serve as a pretext for unduly restricting freedom of expression. When the concern for order prevailed over respect for freedoms, the result was all too often violations of human dignity, the very dignity that every good Government should be aiming to preserve.

15. With regard to the third issue, he had observed that libel laws often created a climate of fear in which, in some cases, no one dared to speak about certain matters of public interest. The desire to protect the reputation of an individual should not lead to repression.

16. As for the new information technologies, particularly the Internet, while not denying that their misuse could lead to moral abuses, he did not believe that censorship was the appropriate response. In his view, what was needed was to increase general awareness of the issues raised by such technologies and to do so in a civilized manner, in other words, as part of an open and democratic debate.

17. Lastly, it was not acceptable that women in some parts of the world were unable to make their voices heard. The Special Rapporteur regretted that time and resource constraints had

limited the work that he was supposed to undertake jointly with the Special Rapporteur on violence against women. He hoped that, in the future, the resources would be available for him to carry out his mandate in that area, which was one he considered crucial.

18. Observing that human rights advocacy was a powerful political weapon, he issued a word of warning against those who used it to further their hidden agenda.

19. Mr. LOY (United States of America), comparing the 40 democracies that there had been in the world in the mid-1970s with the latest figure of 118, said that the growth of democratic government around the world was one of the most striking developments of the age. There were of course still some exceptions: in Yugoslavia, human rights were being crushed in a horrifying fashion, in Sierra Leone, the rebels were indulging in a bloodbath, in China, democratic activists continued to be harassed, in Afghanistan, women were treated like chattels, in Belarus, President Lukashenko was imprisoning his opponents, in Cuba, the Government of Fidel Castro was ruthlessly suppressing all forms of political dissent, and in Iraq, the gravity of the human rights situation had few comparisons anywhere in the world, as pointed out by the Special Rapporteur, Mr. Max van der Stoel.

20. The United States Government was steadfast in its support for democratization, which was a long and difficult struggle that must begin within the society itself. It invested more than $1 billion a year in democracy-building activities around the world, particularly in countries where democracy was under attack and in countries in transition. It acted in that way in the interests of its own security and that of every country, since security depended on international stability and respect for the rule of law - which were the sole aim of his Government's actions in the Balkans - and also because democracy provided the surest route to prosperity. As pointed out recently by the winner of the Nobel Prize for Economic Sciences, Amartya Sen, no major famine had yet occurred in a democratic country. Lastly, it was an inescapable fact that truly democratic Governments offered their citizens the guarantee that their basic rights, particularly the right to political dissent, would be respected and that they would have the best opportunities to improve their lives.

21. The Office of the High Commissioner for Human Rights had recognized the importance of democracy and was firmly committed to that approach. However, for many years, the Commission on Human Rights had avoided directly addressing the issue of promoting the right of every individual to democratic government. His delegation believed it would be appropriate for the Commission to affirm that right at its current session, which was the last of the twentieth century. The statement in the Universal Declaration of Human Rights that "All human beings are born free and equal in dignity and rights" could not become a reality without the guarantees that only democracy could provide.

22. Mr. LI Baodong (China) said that the statement just made by the representative of the United States of America clearly showed that country's desire for hegemony. He recalled that the reservations entered by the United States when it had signed the International Covenant on Civil and Political Rights raised doubts about whether it really intended to implement it. He suggested that the United States should put its own house in order before pointing the finger at others.

23. With regard to civil and political rights, he wished first of all to emphasize that it was impossible to talk of rights without also mentioning the obligations they entailed; as far as the individual was concerned, those obligations consisted of abiding by the law. Secondly, the realization of civil and political rights had to be placed in the context of economic development. Thirdly, as there was no single model to follow in that area, it was on the basis of its own situation that each country should adopt the measures it considered appropriate to guarantee those rights to its citizens, and in doing so it should draw on the political experience of other countries.

24. For more than 20 years, the Chinese Government had been working towards the realization of economic, social and cultural rights by raising the people's standard of living, without losing sight of respect for civil and political rights. In the latter area, it could claim to have achieved remarkable success.

25. The independence of the judicial system had been written into the Constitution of China, since the second session of the Ninth National People's Congress. With regard to freedom of speech, almost all the newspapers and magazines currently published in China were completely independent of the Government. As for religious freedom, it was fully protected by the Constitution and other laws. Moreover, the Government had spent large amounts of money in recent years on renovating temples and churches. All religions in China had their own publications and exchanges of visits between the representatives of various religious communities in China and other countries were helping to strengthen international cooperation in that field.

26. With regard to torture, China had acceded in 1988 to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, ever since then, had observed its provisions meticulously. Various monitoring mechanisms had been set up and steps had been taken to train law-enforcement officers with a view to preventing acts of torture from taking place.

27. Thanks to its persistent efforts, the Chinese Government had made considerable progress in protecting the civil and political rights of its citizens. However, it would be a long and gradual process, to be pursued within the framework of dialogue and cooperation with Governments and with the relevant international organizations.

28. Mr. CHELIA (Argentina) said that his Government attached the greatest importance to civil and political rights and had ratified the various instruments on those rights, including the Convention against Torture, which was henceforth incorporated in Argentine constitutional law. As his Government considered enforced disappearances and torture to be extremely serious crimes, it had made the declarations provided for in articles 21 and 22 of the Convention against Torture and had also ratified the Inter-American Convention on the Forced Disappearance of Persons, which had also been incorporated into Argentine constitutional law. His delegation was in favour of renewing the mandate of the working group established to elaborate a draft optional protocol to the Convention against Torture, the aim of which was to allow periodic visits to detention centres. His delegation hoped that the working group would be able to complete its work at its next session. With regard to the fate of the disappeared persons in Argentina, his Government had informed the Working Group on Enforced or Involuntary Disappearances of the

results of the new judicial inquiries into the fate of those persons and about the outcome of the work of the National Commission for the Right to an Identity, which was responsible for finding and returning disappeared children.

29. With regard to agenda item 11 (d) on the independence of the judiciary, he informed the Commission that his Government had amended the procedure for appointing judges, who had previously been appointed by the President, following a proposal by the Senate. Under the reform, a truly representative council of justice had been set up to appoint judges and oversee the administration of the judiciary.

30. With regard to the right to restitution, compensation and rehabilitation of those whose human rights and fundamental freedoms had been violated, his Government had made specific commitments in that area, paying out $872 million to the victims of the repression that had gripped the country until 10 December 1983, the year in which democracy had been restored.

31. In May 1998, his Government, in line with its policy against impunity, particularly where crimes against humanity were concerned, had extradited an individual guilty of war crimes committed during the Second World War. That action formed part of the activities carried out by the commission responsible for throwing light on Nazi activities in Argentina. Similarly, Argentina had taken an active part in drafting the statutes of the International Criminal Court and had chaired the Plenary Committee of the Conference, which had been held in Rome in June 1998. He hoped that the new Court would become operational as quickly as possible.

32. In conclusion, his delegation subscribed fully to the recommendations of the Special Rapporteur on the question of torture that police officers who carried out acts of torture should not remain unpunished. However, it was regrettable that the Special Rapporteur had not been able to include in his report Argentina's reply to a communication containing allegations of acts of torture committed in the country.

33. Mr. HAYES (Ireland) said that his Government attached great importance to the work of the Special Rapporteur on the independence of judges and lawyers who, as in the previous year, had drawn the Commission's attention to the intimidation and harassment of defence lawyers in Northern Ireland, which sometimes went as far as assassination, as in the case of Rosemary Nelson, who had been murdered on 15 March 1999.

34. His Government was concerned that the investigation into that appalling crime being carried out by the British police with the help of the Federal Bureau of Investigation (FBI) should be truly independent. The role of the Royal Ulster Constabulary (RUC) in the Rosemary Nelson case was a cause for concern. In that connection, he recalled that the assassination of Patrick Finucane, another defence lawyer murdered 10 years previously, had still not been cleared up. In that case also, an NGO had made serious allegations of collusion by the security forces in the murder of Pat Finucane and others.

35. Turning to religious intolerance, he said that it was still a source of discrimination, which continued to be an everyday occurrence around the world. He congratulated the Special Rapporteur, Mr. Abdelfattah Amor, on his professionalism and objectivity in fulfilling his mandate. In the current year also, his delegation would again be introducing a draft resolution

on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief which would, he hoped, be adopted by consensus as at previous sessions.

36. Mr. RUIZ Y AVILA (Mexico), having recalled that all human rights were universal, indivisible and interdependent, stressed that civil and political rights were the rights most commonly associated with the concept of democracy and the rule of law.

37. In Mexico, the exercise of civil and political rights was not yet fully guaranteed and great efforts were being made to strengthen the rule of law. Those efforts were focused on the drafting and implementation of laws as well as on cooperation with international and regional mechanisms for the promotion and protection of human rights. His Government had been democratically elected and diverging opinions could be expressed quite openly in the country through independent institutions with the requisite political credibility. In the State of Chiapas, where for five years there had been a violent conflict between an armed group and the Government, the latter had demonstrated its strong determination to achieve an honourable and just peace through dialogue and negotiation. The group concerned, the Zapatista National Liberation Army, had recently decided to consult the people and its envoys enjoyed complete freedom of movement, assembly and expression throughout the country, even though no peace agreement had yet been signed.

38. The campaign against torture was one of the areas in which Mexico had made significant progress in a short period of time. Since the beginning of the decade, torture had fallen from second to nineteenth place in the list of violations most commonly reported to the Mexican Human Rights Commission. In some states, not a single case of torture had been reported. The authorities had developed a wide-ranging legal framework to combat the phenomenon. Since the Act of 1991, amended in 1994, new legislation had been passed and some legislation had been reformed, such as the Code of Military Justice, which henceforth provided for civil and administrative sanctions against anyone guilty of committing an act of torture. Substantial efforts had also been made on the educational front, and more than 12,000 civil servants had followed training courses in that area. Since torture was neither usual nor widespread in Mexico, his Government considered the accusation that torture was practised systematically in the country to be totally unfounded. On the contrary, as part of the fight against impunity which was a basic priority of the Government, there had been 28 convictions for acts of torture or related crimes in the previous year. In that connection, it should not be forgotten that the Mexican judicial bodies had shown great determination in bringing to justice those guilty of the hateful acts perpetrated in Acteal, in the State of Chiapas, together with their accomplices.

39. Mexico was a party to 43 instruments on the protection of human rights and cooperated fully with the regional and international mechanisms set up under those instruments. Consequently, those mechanisms often had the opportunity to comment on the situation in Mexico, when the country submitted its periodic reports, replied to allegations or requests for information, or invited international observers to visit. His Government welcomed the positive comments and took note of the concerns expressed and did its best to put into practice the recommendations made. In that connection, it deeply regretted the fact that the reports prepared by the various human rights mechanisms were not always as thorough as they ought to be. For example, the Special Rapporteur on torture had informed the Commission that, for lack of

resources, he was unable to include in his report communications from Governments that were submitted in Spanish. Consequently, the Mexican Government's replies to the Special Rapporteur's report and its annex had not been published. It was unacceptable that a special rapporteur should be obliged to give an incomplete picture of the human rights situation in certain countries because of financial constraints, and he requested that sufficient resources be released to ensure that the essential criteria of objectivity and impartiality were fully met.

40. Ms. BRATTESTED (Norway) said that freedom of religion or belief was a fundamental right which was given a central place in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights. That freedom also included the right not to have a religion or belief and to change one's religion.

41. In modern secular societies, religious matters were often considered to be private matters. However, religious practices had both private and public aspects. Moreover, religion was also a bearer of cultural and moral values that made a valuable contribution to societies. Unfortunately, religion was sometimes used to fuel conflict, gain political power and promote the dominance of one group at the expense of the rest of society, whereas religious leaders should be trying by every possible means to find a way to create the conditions for peace and reconciliation.

42. The Oslo Conference on Freedom of Religion or Belief, held in August 1998, had led to the formation of the Oslo Coalition on Freedom of Religion or Belief, whose objective was to ensure the implementation of article 18 of the Universal Declaration of Human Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Another very welcome and valuable contribution to the dialogue on freedom of religion or belief was the seminar organized under the auspices of the Office of the High Commissioner for Human Rights on the topic "Enriching the universality of human rights: Islamic perspectives on the Universal Declaration of Human Rights".

43. Her Government, which strongly endorsed the unique role of the Special Rapporteur on the elimination of all forms of intolerance and of discrimination based on religion or belief, regretted that the resources made available to him to fulfil his task were insufficient. Her delegation approved of the suggestion by the Special Rapporteur that an Internet site be created to make it easier to collect information on intolerance and discrimination based on religion or belief. Moreover, the Special Rapporteur's title could be changed to "Special Rapporteur on freedom of religion and belief".

44. Only Governments could violate human rights, which was why every Government needed to examine the human rights situation within its own jurisdiction. Religious communities also had a responsibility to promote freedom of religion or belief. A society's respect for a range of religious expressions was a measure of its tolerance and capacity to accommodate differences. At the dawn of the twenty-first century, the international community must do everything in its power to promote freedom of religion and belief.

45. Mr. LEGWAILA (Botswana) said that a country in which the civil and political rights of citizens were curtailed or abused was not worthy of the name of a democracy. The full enjoyment of those rights, and of all other human rights, was a prerequisite for the creation of a society founded on the rule of law. His Government fully subscribed to the principle that human

rights were universal and indivisible and not the cultural heritage of one particular society. No country was entitled to deprive its citizens of their fundamental rights; torture and detention without trial had no place in a civilized society and Botswana's laws punished those found guilty of such acts.

46. Disappearances and summary executions were unknown in Botswana. The disappearance of a human being without trace was a fate worse than death and must be strongly condemned by the Commission and the whole international community. As for criminals, even the worst of them had the right to be given the benefit of the doubt in a society founded on the rule of law.

47. Freedom of expression was one of the rights most cherished by the people of Botswana and was the cornerstone of society. That freedom conferred legitimacy on a country's leaders and was best demonstrated by freedom of the press.

48. The report of the Special Rapporteur on the elimination of all forms of intolerance and of discrimination based on religion or belief clearly showed that religious intolerance was a universal scourge from which no country was exempt. Instead of having a calming effect on society, religion had become a destabilizing factor in many societies and was being used by fanatics to divide society and turn human beings against each other.

49. International human rights instruments on their own could not create a world free of religious intolerance and human rights violations. It was for the Member States and Governments to ensure that those instruments were put into effect, by honouring their international obligations within the parameters of their domestic legal systems, to ensure that every citizen enjoyed the right to freedom of thought and conscience, expression and religion.

50. Mr. PIRZADA (Pakistan) said he wished, first of all, to emphasize the reluctance of some to accept the linkage between the enjoyment of civil and political rights and the realization of economic and social development. Thus, the Commission's objective of promoting human rights and fundamental freedoms for all could be accomplished if the Commission were to address the factors which continued to impede the full realization of the right to development. The establishment of an equitable international economic order was essential to enable developing countries to ensure the enjoyment of civil and political rights by their citizens.

51. Respect for human rights had been universally recognized by all civilized cultures, societies, communities and religions and was one of the central pillars of Islam. In that regard, the seminar organized the previous year by the Organization of the Islamic Conference (OIC) and the Office of the High Commissioner for Human Rights on the subject of Islamic perspectives on the Universal Declaration of Human Rights aptly reflected the importance of the promotion and protection of those rights in Islam.

52. In order to guarantee citizens' enjoyment of their fundamental rights, his Government had adopted a number of administrative and legislative measures, relating in particular to women's, children's and minority rights and the fight against discrimination. With regard to women's rights, a national plan of action had been launched by the Prime Minister, and women's development departments had been set up in the four provinces of the country. As for the rights

of the child, the Prime Minister had set up a task force on child labour to formulate strategies for the elimination of such labour. The Employment of Children Act (1991) and Bonded Labour System Abolition Act (1992) had been passed. Moreover, the National Commission on the Welfare and Rights of the Child had been given legal status.

53. A cabinet committee had been constituted to review the provisions of section 295/C of the Pakistan Penal Code, under which blasphemy was punishable with the death penalty. Moreover, an inter-faith committee comprising religious leaders from the minority communities had been set up to study and rectify the complaints of those communities.

54. He congratulated the Special Rapporteur on the independence of judges and lawyers on his concrete and constructive report (E/CN.4/1999/60). Article 2A of the Constitution of Pakistan established the independence of the judiciary, and the judiciary had been completely separated from the executive throughout the country several years previously. The founder of Pakistan, Mr. Jinnah, himself an eminent jurist, had once suggested to the Royal Commission that appointments to the judiciary should be made by a commission consisting of judges and lawyers. The Special Rapporteur could, perhaps, make a recommendation along those lines.

55. The independence of lawyers should not be minimized, as they needed to practise their profession without fear if a country's courts were to function effectively. The steps taken by some Governments to deter advocates from performing their duties must be condemned. He had himself been subjected to such restrictions, particularly in 1996, when he was assisting the Supreme Court, and, before that, in 1972, when he had been prevented from attending the session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. With that in mind, he wished to pay tribute to all those in the South Asian subcontinent who had defended the independence of the judiciary.

56. Mr. VALENCIA, (Ecuador), while recognizing the linkage that existed between the various categories of human rights, said that that relationship in no way relieved the United Nations system and the international community of their obligations to step up their efforts to protect and promote, within the legal and institutional framework provided for that purpose, civil and political rights around the world whenever the latter were being systematically abused.

57. The United Nations was facing a major challenge in that area since it had to ensure not only that the international instruments on civil and political rights, which set out the obligations freely undertaken by the sovereign States Members of the United Nations were implemented, but also that they were effectively implemented. The United Nations must make the investigation of large-scale, persistent and extremely serious violations of human rights one of its priorities if it was not to suffer a loss of prestige or become less effective. It was also important that the United Nations should be fair in the way it dealt with that kind of issue and that efforts to remedy violations should match the seriousness of those violations.

58. His delegation supported the important work of the special rapporteurs in the area of civil and political rights. Cooperation by all States with those mechanisms encouraged dialogue and coordination, which should govern the consideration of human rights issues at the international level. Confrontation resulted only in more entrenched positions and did not bring any closer

either the ultimate objective, namely, the establishment worldwide of a climate of respect for human rights, or the smooth operation of the mechanisms to remedy human rights violations.

59. His Government was doing its best to ensure that human rights were observed in accordance with international and inter-American standards and its own domestic provisions by preventing such violations, punishing those found guilty of perpetrating them and compensating the victims. It had devised a national human rights plan at the heart of which was the creation of a culture of the defence and promotion of human rights.

60. Mr. WIRAJUDA (Indonesia) said that his country had undertaken unprecedented reforms in all fields, notably in the political, economic, social and legal sectors. The reforms were intended to turn the economy round and strengthen democracy and the laws, and the promotion and protection of human rights were a fundamental part of them. A team of legal experts set up by the Government, in cooperation with the House of Representatives, had reviewed domestic laws and regulations to ensure their consistency with the spirit of the reforms and with international human rights standards. As a result, since June 1998, a new political and legal framework had emerged, within which the organization of public demonstrations, the release of political prisoners, the emergence of 50 or so new political parties and the proliferation of NGOs had become a reality. Despite the difficulties linked to the economic crisis and the process of political transformation, his Government was striving to enhance the promotion and protection of the human rights of all its citizens.

61. In the framework of its National Plan of Action on Human Rights (1998-2003), Parliament had just approved the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination and his Government intended to ensure that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were ratified in the year 2000. In addition, it had improved bilateral and multilateral cooperation in the field of human rights, including with the Office of the High Commissioner for Human Rights and with the Commission's mechanisms.

62. He expressed his Government's appreciation of the high degree of professionalism shown by the Working Group on Arbitrary Detention during its mission to Indonesia from 31 January to 12 February 1999. Throughout its visit, the Working Group had enjoyed the full cooperation of the Indonesian authorities. Given the profound changes currently taking place in Indonesia, it was possible that the final report to be submitted by the Working Group at the following session of the Commission might contain out-of-date information. He therefore suggested that a chapter on the latest developments should be included in it.

63. With regard to the preliminary observations of the Working Group on its visit to Indonesia, he said that 53 political prisoners, convicted under the previous regime, had been pardoned or amnestied on 17 March 1999, in addition to the 159 prisoners and detainees already released, which was fully in accordance with recommendation No. 1 of the Working Group. His Government had also decided to separate the police from the armed forces as from 1 April 1999, in accordance with recommendation No. 2 of the Working Group. It had begun reviewing the domestic legal system with a view to strengthening the independence of judges (recommendation No. 3 of the Working Group). It had taken steps to ensure the application of the laws that provided guarantees to detainees and was preparing to implement human rights education

programmes for law-enforcement bodies (recommendation No. 4 of the Working Group). It had submitted a bill to revise the Indonesian Penal Code, including the sections of it devoted to State security. The Subversion Act would be abrogated and the Indonesian Code of Criminal Procedure would be amended (recommendations No. 5 and No. 7 of the Working Group). Lastly, his Government had submitted to the House of Representatives a bill that would strengthen the legal basis of the National Commission on Human Rights. That bill was in the process of being adopted (recommendation No. 6 of the Working Group).

64. The reform process initiated by his Government already corresponded therefore to the Working Group's recommendations. On a more general level, the Government was working to strengthen all aspects of civil and political rights in the wider context of the new spirit of democracy prevailing in the country.

65. Ms. TIRONA (Philippines) said that civil and political rights were absolutely inseparable from economic, social and cultural rights. After the fall of the dictatorship, the people of the Philippines would have felt betrayed if the democratic Government had not given equal priority to economic, social and cultural rights, which were the guarantee for a better future for everyone in the country. Her Government was therefore implementing a development model based on political stability, economic recovery and social reform, on which there was a national consensus whose importance had recently been recognized by the International Monetary Fund (IMF).

66. Developing countries would be in a position to protect civil and political rights only if they had the means to do so. Countries burdened with foreign debt, struggling with structural programmes or suffering from natural calamities were reluctant to allocate their scarce resources to the establishment of institutions for the promotion and protection of such rights. For those countries, improving prison conditions or training police officers might mean taking money away from the budget for food and shelter. They must therefore be given the means to generate the resources that would allow them to ensure that their citizens enjoyed all their rights. While advisory services and technical cooperation to improve the human rights situation in recipient countries were important, it was vital to ensure that cooperation projects were approached from a long-term development perspective. Lastly, she drew attention once again to the artificiality of the separation of civil and political rights from economic, social and cultural rights in the Commission's agenda.

67. Mr. STANCZYK (Poland) said it was regrettable that the recommendations of the United Nations bodies responsible for the observance of human rights, including the Committee against Torture, were so often neglected by States, whereas the implementation of those recommendations could make control in that area more effective.

68. In accordance with the recommendations of the Committee against Torture, his authorities had brought their legislation into line with the provisions of the relevant international convention. The new Polish Constitution, which had entered into force on 17 October 1997, included a provision explicitly prohibiting the use of torture and cruel, inhuman or degrading treatment. Under the new provisions, the State authorities had a duty to protect individuals, particularly those deprived of their liberty, from corporal punishment and scientific experiments carried out on them against their will, and to ensure that they were treated humanely.

69. The monitoring mechanism to ensure that the ban on torture was fully observed was inadequate. His delegation was in favour, therefore, of the creation within the United Nations system of a new mechanism that would both apply sanctions against people found guilty of torture and take preventive action. That was precisely the purpose of the draft optional protocol to the Convention against Torture, under which a system would be set up for visits to places of detention. In his view, the subcommittee set up for that purpose should carry out its inspections in close cooperation with the authorities of the country concerned in order to improve the situation of those persons deprived of liberty. As the draft protocol currently under consideration appeared to be based on a spirit of cooperation, the monitoring system proposed should not be considered as a threat to the sovereignty or independence of States. The lack of progress made by the working group responsible for drafting the protocol was thus a serious cause of concern.

70. On the thorny question of the need for permission from the State concerned before visits could be carried out, his delegation believed that visits should be permitted in all the countries that were parties to the protocol. The introduction of a requirement that States should give consent for each inspection would be contrary to the fundamental objectives of the instrument. It would also be necessary to clarify precisely what kind of exceptional circumstances could be invoked by a State party that was opposed to an inspection.

71. Mr. KARIYAWASAM (Sri Lanka) said that his Government had taken significant steps with regard to enforced or involuntary disappearances. It had appointed three commissions to investigate disappearances reported in three regions of Sri Lanka. The judiciary had administered deterrent sentences, demonstrating that there was no room for impunity in Sri Lanka. The three Commissions had presented their reports to the President in September 1997. Those reports had been made public and shared with the Working Group on Enforced or Involuntary Disappearances. A new commission had been appointed on 30 April 1998 to investigate allegations of disappearances that had not been investigated by the three previous commissions; its mandate covered the whole county. A special unit reporting to the Attorney-General had opened criminal investigations into the 1,681 cases identified by the three commissions. The investigations were ongoing.

72. He stressed that many of the disappearances were linked to terrorist activities. He welcomed the work done by the Working Group chaired by Mr. Joinet to analyse the complex problem of terror and armed groups, as "perpetrators of disappearances", but remained unconvinced that a proper solution could be found to the problem.

73. Some of the provisions in the draft international convention on the protection of all persons from enforced disappearance, particularly those concerning the prosecution of offenders, needed to be clarified. Further clarification would also be desirable of the provisions concerning the applicability of the convention to non-state actors, the scope of the definition of crimes, international cooperation, admissibility and other aspects. The Commission should seek the views of the Member States on several aspects of that draft convention.

74. As far as terrorism was concerned, the most urgent task was to identify those aspects of terrorism that affected the enjoyment of human rights. His delegation thus welcomed the working paper prepared by Ms. Koufa on human rights and terrorism and hoped that it would serve as the basis for a report taking into account new trends and developments in terrorism.

75. Mr. MODOUX (United Nations Educational, Scientific and Cultural Organization (UNESCO)) said that the work by UNESCO on freedom of expression fell into three categories: standard-setting, awareness-raising and implementation. As far as standards were concerned, UNESCO had organized between 1991 and 1997 together with the United Nations Department of Public Information, five regional seminars on promoting independent and pluralistic media. The five declarations adopted at the seminars and taken up by the General Conference of UNESCO had provided States with very clear guidelines on the democratic way to approach, realize and guarantee freedom of the press and the independence and pluralism of the media.

76. As for awareness-raising, UNESCO had established, three years previously, the UNESCO/Guillermo Cano World Press Freedom Prize. It was an annual prize to honour a person, organization or institution that had made a notable contribution to the defence and/or promotion of freedom of the press. In 1997, it had been awarded to the Chinese journalist Gao Yu, in 1998, to the Nigerian journalist Christina Anyanwu and, in 1999, to the Mexican investigative journalist Jesús Blancornelas, who had received a death threat from the Mafia. UNESCO also provided moral and financial support to the International Freedom of Expression and Exchange Network (IFEX), which had been set up to alert its members, by e-mail, concerning all violations of press freedom. The network currently comprised over 600 subscribers in 110 countries.

77. Lastly, at the operational level, UNESCO was undertaking various activities to promote freedom of expression: assisting Governments that wished to adapt their media legislation to democratic standards; organizing seminars to allow representatives of constituent bodies to talk to media professionals; and supporting the establishment of local or community radio stations in order to "give a voice to those who had none".

78. Moreover, the Director-General of UNESCO not only condemned crimes against journalists publicly and systematically, but also whenever possible, took discreet diplomatic action to help journalists and other intellectuals who were imprisoned or missing. UNESCO had also been working for several years in the Balkans, offering assistance to independent media trying to provide unbiased information to local people and to counter the propaganda of violence and hate spread by newspapers under the direct or indirect control of the supporters of force and confrontation.

79. Mr. AL-MADI (Observer for Saudi Arabia) said he was surprised that his Government's replies to various special rapporteurs had not been included in their reports. In particular, he regretted that the Special Rapporteur on torture, Mr. Nigel Rodley, had made no mention when presenting his report a week earlier of the Saudi Government's favourable response on 21 October 1998 to his request for a visit. Moreover, no account had been taken of the letter dated 21 October 1998 from his Government to the Office of the High Commissioner for Human Rights concerning arbitrary arrests alleged to have taken place in Saudi Arabia.

80. Special rapporteurs and working groups should coordinate their working methods, particularly in the way they dealt with communications submitted to them. It would also be desirable to check that the people working with the special rapporteurs were impartial.

81. Mr. HASNUDIN (Observer for Malaysia) said that democracy had many imperfections but it did have the saving grace of being, under certain conditions, self-correcting. Those conditions included the holding of free and regular elections, freedom of opinion and expression, and a certain amount of stability borne of tolerance. However, democracy was not an end in itself, but rather a means of achieving a higher goal, namely, social justice. At the same time, the need to ensure stability while safeguarding freedom of expression sometimes led to difficult choices in an increasingly turbulent world. Therein lay the weakness of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, on his visit to Malaysia (E/CN.4/1999/64/Add.1): it had failed to consider the contradictions inherent in any democracy or how they could be resolved.

82. By focusing his report mainly on the trial and detention of Mr. Anwar Ibrahim, the Special Rapporteur had failed to assess the difficult choices facing a democracy operating in a multi-ethnic society. Nor had he taken into account the historical and social context that had shaped the Malaysian way of thinking, particularly regarding the issue of freedom of opinion, or considered why the difficulties facing Malaysia would persist.

83. The Special Rapporteur was forgetting one important fact: while the Malaysian laws might be imperfect, they had been adopted by a freely elected legislature. Any law could be amended. In paragraph 18 of his report (E/CN.4/1999/64), the Special Rapporteur stated that he "continues to be concerned about the manner in which anti-terrorism and national security laws can, on occasion, be misused ... to violate ... the right to freedom of opinion and expression". His delegation broadly agreed with that point of view but wished to recall that, if the laws were misused, they could always be changed - that was the whole idea of a self-correcting democracy.

84. Mr. EFTYCHIOU (Observer for Cyprus) drew the Commission's attention to the tragic issue of the persons missing in Cyprus since 1974 as a result of the invasion by Turkey. That purely humanitarian problem had still not been resolved and the families of those missing continued to suffer as they waited for news of the fate of their loved ones. The situation was attributable to the lack of cooperation and goodwill on the Turkish side. He appealed to the Turkish side to abide by and implement the letter of the provisions of the July 1997 agreement and to cooperate with the Committee on Missing Persons.

85. Referring to the communication he had circulated to the Commission, in which he denounced the destruction since 1974 by Turkey of the historical and cultural heritage of Cyprus, he said he hoped that the Commission would continue to raise awareness around the world of the importance of safeguarding the cultural heritage of States. The destruction of the religious, historical and cultural identity of any country was not only a painful violation of human rights but also an insult to human dignity and an affront to the international community, which had institutionalized the protection of the world's cultural heritage. That cultural heritage belonged to all and the destruction of any one part of it was a loss for all humankind.

86. Mr. MONTENEGRO MALLONA (Observer for Nicaragua) said that, as part of the process of consolidating peace and democracy that was under way in his country, exceptional progress had been made in strengthening the rule of law and thus promoting civil and political

rights. There had been widespread violations of those rights until the end of the 1980s, but their principles were henceforth widely accepted and they were being observed on a daily basis in a very responsible and civic-minded manner.

87. His country was continuing to make progress towards the independence and modernization of the four branches of government, including by strengthening the judicial and electoral system through structural and legal reforms and training programmes. A College of Magistrates had been established and a judicial review body totally independent of the State had been set up. The phenomenon of impunity, as well as that of enforced and involuntary disappearances, had basically become a thing of the past and his country could pride itself on having no political prisoners. The armed forces were under civilian control and significant resources were devoted to the civic training of their members. The right to freedom of expression was exercised fully and without restriction, both by individuals and groups. The problems that arose were settled through national dialogue.

88. Despite the enormous damage it had caused in the country, Hurricane Mitch had resulted in a strengthening of the rule of law. The Civil Society Advisory Board of the Presidential Commission for the Reconstruction and Transformation of Nicaragua had submitted to the President of the Republic a vision of the future of Nicaragua based on a truly participatory and representative democracy. The progress made thanks to the efforts of all Nicaraguans had been achieved in a climate of absolute openness and pluralism, with the broad participation of all sectors of society.

89. Mr. DE LA ROCHA (International Educational Development Inc.) accused the United States of America of openly violating human rights in its criminal justice system, recalling that the Inter-American Commission on Human Rights had decided that the application of the death penalty to minors or the mentally retarded violated jus cogens. He drew attention to the case of Mumia Abu-Jamal, who, after a travesty of a trial, had been sentenced to death for basically political reasons and who was being held in conditions that were not in keeping with international standards. He joined President Nelson Mandela, Archbishop Desmond Tutu, the Reverend Jesse Jackson, the National Black Police Association of the United States, the European Parliament and hundreds of thousands of petitioners in calling for the release of Mumia Abu-Jamal and the full compliance of the United States with international criminal justice norms. He called on the Commission on Human Rights to condemn the detention and sentencing to death of Mumia Abu-Jamal in particular and the death penalty in the United States in general.

90. He also drew attention to the cases of two people who had been tortured in June 1998 by Moroccan officials in the occupied territories of Western Sahara. Morocco, which was preventing the United Nations Mission for the Referendum in Western Sahara (MINURSO) and the press from doing their work, must be condemned and the planned referendum must be carried out as intended by the United Nations. He was also very concerned about the conditions of detention of Abdullah Ocalan and joined in the international appeal for the release of Mr. Ocalan and for peace in Turkish Kurdistan. He considered the statement made by Mr. Ocalan on 6 April 1999 represented a reasonable step towards resolving the problems in that region. Lastly, with regard to the situation in Yugoslavia and Kosovo, he appealed to the Commission to urge the parties involved to stop all bombing and said that, if the reports of the

use of depleted uranium by North Atlantic Treaty Organization (NATO) forces were true, neither the Kosovars nor the Serbs would be able to use the land affected. Quoting the former Prime Minister of Sweden, Mr. Ingvar Carlsson, he warned against a return to the bad old days when might was right.

91. Mr. SOUTHALAN (Asian Cultural Forum on Development) drew the Commission's attention to the national security laws and the human rights violations to which they contributed in the Asia and Pacific region, even in countries with well-established democratic and judicial systems. By granting the State extensive powers of investigation and detention, supposedly to protect the country's interests, most of those laws breached the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights by encouraging discrimination, repression and arbitrariness. He gave several examples of such violations, which were described in detail in the statement he had circulated to the Commission.

92. Any government restrictions on citizens' rights must be in accordance with international law and must be subject to democratic processes. He therefore strongly urged the Governments in the countries of the Asia and Pacific region to review immediately their national legislation with a view to repealing any national security laws that authorized human rights violations or that provided immunity to their perpetrators, increasing transparency and accountability in the use of those laws, and ensuring that all current and future national security laws complied with international standards and the Johannesburg Principles.

93. Mr. YESHI (International Union of Socialist Youth) said he was a Tibetan refugee who had lived in exile, deprived of his right to a country, for 33 years and wished to describe the appalling situation of the thousands of Tibetan political prisoners held in inhuman conditions in Chinese prisons in Tibet where, in violation of all international standards, torture, solitary confinement and forced labour were commonplace. According to a recent study by the Tibet Information Network (TIN), 32 political prisoners had died in detention or as a direct consequence of their detention between September 1987 and January 1999. Under one of the most brutal regimes of the twentieth century, the Tibetan people continued to be deprived of their rights to freedom of expression, assembly, association and religion.

94. Together with two other Tibetans, he had been on hunger strike since 5 April outside the Palais des Nations, in the hope that the international community would help them to end the human rights violations endured by 6 million Tibetans. All three were determined to continue their hunger strike until their legitimate demands were met. One of their demands was that the Commission should adopt, at its current session, a resolution strongly condemning China for its repeated refusal to protect the civil and political rights of the Tibetan people. It was clear that the policy of engagement with China followed by some countries had not produced the slightest improvement in the human rights situation in Tibet. If it wished to retain its credibility, the Commission must condemn all countries, large or small, that repeatedly violated international human rights standards.

95. Mr. MENENDEZ (Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos) said he enthusiastically supported the draft international convention on the protection of all persons from enforced disappearance and urged the Commission to do everything in its power to ensure that it was adopted. He requested the Commission to include two paragraphs in

its draft resolution on the adoption of the draft: in the first, the Commission would take note of the Secretary-General's report concerning the draft convention and the adoption by the Sub-Commission of a resolution approving the draft; while the second paragraph would set 31 October 1999 as the deadline for receipt of comments from those concerned, basically States and human rights organizations, with a view to setting up in the following year an inter-sessional working group to speed up the discussions and incorporate proposals.

96. It was necessary to retain, and even strengthen, the Working Group on Enforced or Involuntary Disappearances and to reform its working methods.

97. His organization welcomed the recent decision by the House of Lords in the United Kingdom to refuse to grant immunity to General Pinochet for crimes against humanity committed when he was Head of State; other former heads of state suspected of similar crimes should also be brought before the relevant courts. It also approved of the adoption of the Statute of the International Criminal Court and urged the Commission to request States to ratify it quickly. Lastly, it welcomed the report submitted by Mr. Bassiouni on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms, which it saw as a step towards the adoption of universally acceptable guidelines on the subject thanks to a wide-ranging consultative process.

98. His organization was concerned by the fact that the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had not yet been adopted, particularly since, according to the report by the Special Rapporteur, Mr. Rodley, the situation in Turkey concerning impunity for persons responsible for acts of torture, mostly involving people of Kurdish origin, was extremely worrying. Unless a fair solution was found to the Kurdish problem, there was little hope of a general and lasting improvement in the situation of human rights in Turkey.

99. He was disappointed that the United States, currently the dominant Power in the world, should be so weak when it came to promoting and protecting human rights. The United States had not accepted the control mechanism provided for in the International Covenant on Civil and Political Rights, nor had it ratified the American Convention on Human Rights.

100. Mr. PARY (Indian Movement "Tupaj Amaru") pointed out that over 350 million Indians were excluded from the concert of nations and deprived of the right to participate in international bodies dealing with the indigenous issue because the vast majority of the organizations representing Indians did not enjoy consultative status with the Economic and Social Council. In addition to that injustice and contrary to the Vienna Declaration, States continued to hinder the effective participation of indigenous representatives in the United Nations system. Thus, one year after it had been granted consultative status with the Economic and Social Council, the Indian Movement "Tupaj Amaru" had been requested by the Committee on Non-Governmental Organizations to submit a report between the normal reporting dates because of a formal complaint made by the Colombian Government to the Office of the High Commissioner for Human Rights and the Committee on Non-Governmental Organizations in which the Movement was accused of accrediting, at the fifty-fourth session of the Commission on Human Rights, two Colombian nationals alleged to have links with guerrillas. Those individuals, who had been

accredited at the request and on the recommendation of the American Association of Jurists, were public figures in Colombia and had taken part in the Commission's session purely as human rights advocates.

101. Such allegations and political pressures were unacceptable in the United Nations and it was ironic that they should come from the Government of Colombia, where the most serious violations of civil and political freedoms persisted and where human rights were systematically violated. To claim the right to censor NGOs was to obstruct the consultative process provided for in Article 71 of the Charter of the United Nations and was a serious infringement of freedom of expression. It was also unacceptable for human rights advocates to be monitored, placed on file and harassed. If the Colombian delegation had anything to say about the presence of persons who did not meet with its approval, rather than make groundless accusations to the Committee on Non-Governmental Organizations, it could have followed the procedure provided for in rule 45 of the rules of procedure of the functional commissions of the Economic and Social Council, and exercised its right of reply.

102. Ms. HAENNI (Association for the Prevention of Torture) asked the Commission to observe a moment's silence for all people who were currently being tortured around the world.

103. The CHAIRPERSON said that, while she did not dispute the right of speakers to devote their speaking time to silence, minutes of silence were usually declared by the Chairperson on behalf of the entire Commission.

104. Ms. HAENNI (Association for the Prevention of Torture) said she wished to draw attention to two particularly worrying aspects of the issue of the prevention of torture and ill-treatment. In the first place, while thanking all those who had contributed to the smooth functioning of the working group established to elaborate a draft optional protocol to the Convention, an exemplary instrument for preventing torture and fostering cooperation and dialogue, she regretted that the working group had reached consensus only on three technical articles and believed that priority should be given to drafting a final improved text. She was therefore in favour of renewing the mandate of the working group, and recommended that the chairperson of the working group should hold inter-sessional consultations with a view to bridging the gaps between the different positions. She welcomed the nomination of Mrs. Odio Benito as chairperson of the working group.

105. The universal ratification of the Convention against Torture was absolutely essential, and her organization regretted that it was the least ratified of the core international human rights instruments. The Association for the Prevention of Torture, together with five other international NGOs and in partnership with national NGOs, had organized an international campaign for the ratification of the Convention. She congratulated Bangladesh, Burkina Faso, Indonesia, Kazakhstan, Mali, Niger, South Africa and Zambia on ratifying it and commended South Africa for being the first State since 1995 to recognize the individual communications procedure. She

also thanked the Government of the United Kingdom for making the campaign a priority. Lastly, her organization would very much like to see the two European Union countries that had not yet ratified the Convention, Belgium and Ireland, do so before the end of the year. She called on the Commission to urge States not only to ratify the Convention, but also to recognize fully the competence of the Committee against Torture, in other words, to accept the individual communications procedures and confidential inquiries.

The meeting rose at 1.05 p.m.